

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

United States Enrichment
Corporation, Portsmouth
Gaseous Diffusion Plant
3930 US 23, Perimeter Road
Piketon, Ohio

Respondent.

)
)
) Docket No. CAA-5-99-005
)
) Proceeding to Assess
) Administrative Penalties
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. Section 7413(d)
)
)
)

CONSENT AGREEMENT AND CONSENT ORDER

Complainant, the Director of the Air and Radiation
Division, United States Environmental Protection Agency,
Region 5 (U.S. EPA), initiated this civil administrative
proceeding for the assessment of a civil penalty pursuant to
Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d),
and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of
Practice Governing the Administrative Assessment of Civil
Penalties and Revocation or Suspension of Permits (Consolidated
Rules), 40 C.F.R. Part 22, by issuing and filing an
Administrative Complaint (Complaint) against Respondent, United
States Enrichment Corporation, Portsmouth Gaseous Diffusion Plant
(USEC).

US ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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I. PRELIMINARY STATEMENT

1. The Complaint alleges that Respondent violated Section 112 of the Act, 42 U.S.C. § 7412, and the NESHAP regulations for Radionuclides, 40 C.F.R. Part 61, Subpart H. Specifically, the Complaint alleges that Respondent, as the operator, failed to submit an annual report to demonstrate compliance with the NESHAP regulations for Radionuclides to both EPA headquarters and the appropriate regional office by June 30, 1998, in violation of 40 C.F.R. § 61.94(a).
2. On September 25, 1998, U.S. EPA issued to USEC a Finding of Violation (FOV) alleging that USEC violated the NESHAP regulations for Radionuclides.
3. On October 13, 1998, representatives of USEC and U.S. EPA held a conference to discuss the September 25, 1998 FOV.
4. Complainant and Respondent have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order. Respondent admits the jurisdictional allegations set forth in the Complaint and neither admits nor denies the factual allegations set forth in the Complaint.
5. Respondent waives its right to a hearing on the allegations of the Complaint.

6. This Consent Agreement and Consent Order shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.
7. Respondent certifies that it is in full compliance with the NESHAP regulations for Radionuclides at 40 C.F.R. Part 61, Subpart H.
8. Respondent and Complainant consent to the terms of settlement set forth below.

II. TERMS OF SETTLEMENT

9. Based on the foregoing stipulations and findings, and having taken into account the seriousness and duration of the violations, Respondent's full compliance history, degree of culpability, economic benefit or savings resulting from the violations, the size of Respondent's business and the economic impact of the penalty on the business, and Respondent's good faith efforts to comply, Complainant agrees to mitigate the **eighty four thousand dollar (\$84,000.00) penalty to fifty six thousand dollars (\$56,000.00).**
10. Respondent consents to the issuance of this Consent Agreement and consents for the purposes of settlement to the payment of the civil penalty cited in the foregoing paragraph.

11. Within thirty (30) days of receiving a copy of this Consent Agreement and Consent Order signed by the U.S. EPA Regional Administrator, Region 5, Respondent shall submit a cashier's or certified check in the amount of **fifty six thousand dollars (\$56,000.00)** payable to the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, indicating Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. The case docket number and the billing document number shall also be included on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Nidhi K. O'Meara, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. The penalty specified in Paragraph 9, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.
14. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. In addition, a late payment handling charge of \$15.00 will be imposed if payment is not made within sixty (60) days after the Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, with an additional charge of \$15.00 for each subsequent 30-day period over which an unpaid balance remains.
15. This Consent Agreement and Consent Order constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Consent Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

16. Respondent's failure to comply with any provision of this Consent Agreement and Consent Order may subject Respondent to a civil action pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest, handling charges, and nonpayment penalties as set forth in Paragraph 14 above. In any such collection action, the validity, amount, and appropriateness of this Order or the penalty assessed hereunder are not subject to review.
17. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
18. Nothing in this Consent Agreement and Consent Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.
19. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this Consent Agreement and Consent Order and to bind that party to such terms.

22. Each party shall bear its own costs, fees and disbursements in this action.
23. This is a "final order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

**U.S. Environmental Protection
Agency, Complainant**

Date: 2-8-99

By: 

Richard C. Karl, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

**United States Enrichment
Corporation, Portsmouth Gaseous
Diffusions Plant, Respondent**

Date: _____

By: 

James H. Miller
Executive Vice President
United States Enrichment
Corporation, Portsmouth Gaseous
Diffusion Plant

CONSENT AGREEMENT AND CONSENT ORDER
United States Enrichment Corporation,
Portsmouth Gaseous Diffusions Plant
Docket No.

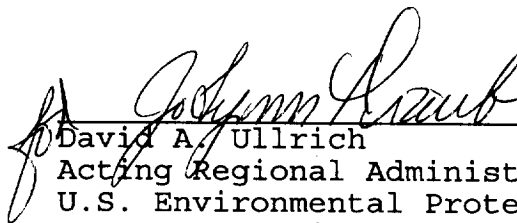
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III. ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective immediately.

Date: _____

2/9/99

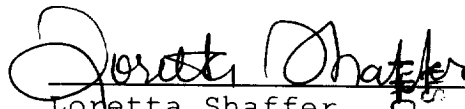


David A. Ullrich
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Loretta Shaffer, do hereby certify that the original of the foregoing Consent Agreement and Consent Order was hand delivered to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that correct copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policy (described in the Compliant) was mailed first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

on the 11th day of February, 1999.


Loretta Shaffer
AECAB (RIAS)

CERTIFIED MAIL RECEIPT NUMBER:

P 300 759 704

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